

EXHIBIT 4

Page 1

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----)
In re:) SIPA LIQUIDATION
)
BERNARD MADOFF INVESTMENT) No. 08-01789 (SMB)
SECURITIES LLC,)
)
Debtor.) (Substantively
) Consolidated)
-----)

In re:)
)
BERNARD L. MADOFF,)
)
Debtor.)
-----)
IRVING H. PICARD, Trustee for)
the Liquidation of Bernard L.)
Madoff Investment Securities)
LLC,)
) Adv. Pro. No.
Plaintiff,) 10-04995 (SMB)
)
v.)
)

TRUST U/ART FOURTH O/W/O)
ISRAEL WILENITZ,)
)
EVELYN BEREZIN WILENITZ,)
individually, and as Trustee)
and Beneficiary of the Trust)
U/ART Fourth O/W/O Israel)
Wilenitz,)
)
SARA SEIMS, as Trustee of the)
Trust U/ART Fourth O/W/O)
Israel Wilenitz,)
)
Defendants.)
-----)

(CAPTION CONTINUED ON THE NEXT PAGE)

1	-----)	
	IRVING H. PICARD, Trustee for)
2	the Liquidation of Bernard L.)
	Madoff Investment Securities)
3	LLC,)
) Adv. Pro. No.
4	Plaintiff,) 10-04818 (SMB)
)
5	v.)
)
6	TOBY HARWOOD,)
)
7	Defendant.)
	-----)	
8	IRVING H. PICARD, Trustee for)
	the Liquidation of Bernard L.)
9	Madoff Investment Securities)
	LLC,)
10) Adv. Pro. No.
	Plaintiff,) 10-04914 (SMB)
11)
	v.)
12)
	EDYNE GORDON, in her capacity)
13	as the executrix and primary)
	beneficiary of the estate of)
14	Allen Gordon,)
)
15	Defendant.)
	-----)	
16	IRVING H. PICARD, Trustee for)
	the Liquidation of Bernard L.)
17	Madoff Investment Securities)
	LLC,)
18) Adv. Pro. No.
	Plaintiff,) 10-04826 (SMB)
19)
	v.)
20)
	ESTATE OF BOYER PALMER, DIANE)
21	HOLMERS, in her capacity as)
	Personal Representative of the)
22	Estate of Palmer, and BRUCE)
	PALMER, in his capacity as)
23	Personal Representative of the)
	Estate of Boyer Palmer,)
24)
	Defendant.)
25	-----)	

1 -----)
 IRVING H. PICARD, Trustee for)
 2 the Liquidation of Bernard L.)
 Madoff Investment Securities)
 3 LLC,)
) Adv. Pro. No.
 4 Plaintiff,) 10-04644 (SMB)
)
 5 v.)
)
 6 RUSSELL L. DUSEK,)
)
 7 Defendant.)
 -----)
 8 IRVING H. PICARD, Trustee for)
 the Liquidation of Bernard L.)
 9 Madoff Investment Securities)
 LLC,)
 10) Adv. Pro. No.
 Plaintiff,) 10-04541 (SMB)
 11)
 v.)
 12)
 KENNETH W. PERLMAN; FELICE J.)
 13 PERLMAN; and SANFORD S.)
 PERLMAN,)
 14)
 Defendant.)
 15 -----)
 IRVING H. PICARD, Trustee for)
 16 the Liquidation of Bernard L.)
 Madoff Investment Securities)
 17 LLC,)
) Adv. Pro. No.
 18 Plaintiff,) 10-04728 (SMB)
)
 19 v.)
)
 20 BRUNO DIGIULIAN,)
)
 21 Defendant.)
 -----)

22
 23
 24
 25

1 -----)
 IRVING H. PICARD, Trustee for)
 2 the Substantively Consolidated)
 SIPA Liquidation of Bernard L.)
 3 Madoff Investment Securities)
 LLC and Bernard L. Madoff,)
 4) Adv. Pro. No.
 Plaintiff,) 10-04905 (SMB)
 5)
 v.)
 6)
 TRAIN KLAN, a Partnership;)
 7 FELICE T. LONDA, in her)
 capacity as a Partner in Train)
 8 Klan; CLAUDIA HELMIG, in her)
 capacity as a Partner in Train)
 9 Klan; TIMOTHY LANDRES, in his)
 capacity as a Partner in Train)
 10 Klan; PETER LONDA, in his)
 capacity as a Partner in Train)
 11 Klan; TIMOTHY HELMIG, in his)
 capacity as a Partner in Train)
 12 Klan; and WENDY LANDRES, in her)
 capacity as a Partner in Train)
 13 Klan,)
)
 14 Defendants.)
 -----)
 15 IRVING H. PICARD, Trustee for)
 the Substantively Consolidated)
 16 SIPA Liquidation of Bernard L.)
 Madoff Investment Securities)
 17 LLC and Bernard L. Madoff,)
) Adv. Pro. No.
 18 Plaintiff,) 10-004621 (SMB)
)
 19 v.)
)
 20 DONALD A. BENJAMIN,)
)
 21 Defendant.)
 -----)
 22
 23
 24
 25

1 TRUSTEE'S MOTION TO COMPEL DISCOVERY IN THE

2 THREE ADVERSARY PROCEEDINGS:

3

- 4 i) Picard v. Benjamin, Adv. Pro. No. 10-04621
- 5 ii) Picard v. DiGiulian, Adv. Pro. No. 10-04728
- 6 iii) Picard v. Train Klan, Adv. Pro. No. 10-04905

7

8 -and-

9 CHAITMAN LLP'S MOTION TO COMPEL DISCOVERY AND THE
10 TRUSTEE'S CROSS-MOTION FOR A PROTECTIVE ORDER IN ONE
11 ADVERSARY PROCEEDING, PICARD V. WILENITZ, ADV. PRO.
12 NO. 10-04995

13

14 -and-

15

16 CHAITMAN LLP'S MOTION FOR PROTECTIVE ORDER AND QUASH
17 TRUSTEE'S DEPOSITIONS IN THE FOLLOWING ADVERSARY SIX
18 PROCEEDINGS:

19

- 20 i) Picard v. Perlman, Adv. Pro. No. 10-0454
- 21 ii) Picard v. Gordon, Adv. Pro. No. 10-04914
- 22 iii) Picard v. Harwood, Adv. Pro. No. 10-04818
- 23 iv) Picard v. Estate of Palmer, Adv. Pro. No.
24 10-04826
- 25 v) Picard v. DiGiulian, Adv. Pro. No. 10-04728
- vi) Picard v. Dusek, Adv. Pro. No. 10-04644

1

2 TRANSCRIPT OF PROCEEDINGS

3 in the above-titled action, held on Tuesday,
4 December 13, 2016, at JAMS, 680 Eighth Avenue, New
5 York, New York, commencing at approximately 10:00
6 a.m., before Eileen Mulvenna, CSR/RMR/CRR, Certified
7 Shorthand Reporter, Registered Merit Reporter,
8 Certified Realtime Reporter, and Notary Public of
9 the State of New York.

10

1 B E F O R E:

2

HON. FRANK MAAS (RET.), Arbitrator
620 Eighth Avenue
34th Floor
New York, New York 10018
fmaas@jamsadr.com

5

6

A P P E A R A N C E S:

7

8

BAKER HOSTETLER LLP
Attorneys for the Trustee
811 Main Street
Suite 1100
Houston, Texas 77002-6111
BY: DEAN HUNT, ESQ.
dhunt@bakerlaw.com
MARIE L. CARLISLE, ESQ.
marie.carlisle@bakerlaw.com

13

-and-

14

BAKER HOSTETLER LLP
45 Rockefeller Plaza
14th Floor
New York, New York 10111
BY: EDWARD J. JACOBS, ESQ.
edward.jacobs@bakerlaw.com

18

19

CHAITMAN LLP
Attorneys for Defendants
465 Park Avenue
New York, New York 10022
BY: HELEN DAVID CHAITMAN, ESQ.
hchaitman@chaitmanllp.com
GREGORY M. DEXTER, ESQ.
gdexter@chaitmanllp.com

24

25

1 obtained them in part from a Rule 2004
2 subpoena and part from what we restored on
3 the BLMIS DTC terminal, in part from
4 documents we got from the government.

5 We compiled all of that. It is all
6 available in a specifically labeled folder
7 called DTC. There are also folders in that
8 exact same section that are labeled "FINRA."
9 All of the categories of documents you're
10 looking for, as we've written you in letters
11 and attempted to explain to you many times in
12 the past, are actually in their own folders
13 in the data room so they can be -- they are
14 accessible that way.

15 Now, with respect to earlier periods
16 of the fraud, that is an allegation and an
17 issue that you recently raised in the PW
18 context pursuant to Mr. Madoff's testimony.
19 Even though it was outside the scope of the
20 order allowing that testimony, the judge has
21 now allowed a second deposition on that
22 subject.

23 We will look for and have been looking
24 for stuff -- any additional stock trading
25 records as to earlier periods of time in

1 addition to what is currently in the data
2 room. To the extent we find them or restore
3 them or can obtain them from DTC or any other
4 source, we will produce them to you and we
5 will put them in the data room. Absolutely.

6 MS. CHAITMAN: But see --

7 THE ARBITRATOR: Let me rephrase that
8 for a second and see whether it's correct.

9 That to date, except to the extent
10 that they may be in DTC records or FINRA
11 records in that data room, you haven't found
12 any other records?

13 MR. JACOBS: We're currently looking.
14 Because it's an active issue that
15 Ms. Chaitman has raised in the PW context in
16 discovery. There's a deposition scheduled
17 for December 20th where Mr. Madoff will give
18 additional testimony as to those issues.

19 And clearly we are going to want to
20 respond, if we can to meet with the debtor's
21 books and records that are available. So we
22 are actively looking for that material.

23 THE ARBITRATOR: December 20th is --

24 MS. CHAITMAN: Next Tuesday.

25 THE ARBITRATOR: When are you going to

1 C E R T I F I C A T E

2

3 STATE OF NEW YORK)

4) ss:

5 COUNTY OF WESTCHESTER)

6

7 I, Eileen Mulvenna, CSR/RMR/CRR and a
8 notary public within and for the State of New York,
9 do hereby certify:

10 That I reported the proceedings in the
11 within-entitled matter, and that the within
12 transcript is a true record of such proceedings.

13 I further certify that I am not related by
14 blood or marriage to any of the parties in this
15 matter and that I am in no way interested in the
16 outcome of the matter.

17 IN WITNESS WHEREOF, I have hereunto set my
18 hand this 15th day of December, 2016.

19

20

Eileen Mulvenna, CSR/RMR/CRR

21

22

23

24

25